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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1152nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 March 1996, at 10 a.m.

Chairman: Mr. BANTON

later: Mr. GARVALOV

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The meeting was called to order at 10 a.m.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 11) (continued)

1. The CHAIRMAN welcomed Mr. Cissé and Mr. Atchebro and informed them of th main points discussed during the previous days's dialogue between the Committee and Mr. Fall and Mr. Ayala Lasso.

2. With regard to General Assembly resolution 49/146 entitled "Third Decade to Combat Racism and Racial Discrimination", he pointed out that, four years previously, the compendium of model legislation for the guidance of Governments in the enactment of further legislation against racial discrimination, to which reference was made in paragraph 10 of that resolution, had been submitted to the Committee, which had strongly criticized it because it focused on criminal law to the detriment of administrative, constitutional and civil law and labour legislation. It would therefore be preferable for the secretariat to take the Committee's criticisms into account before publishing that compendium.

3. It was also extremely important that the seminar on immigration and racism, for which provision was made in the Programme of Action for the Third Decade, should be organized in collaboration with ILO, which had gained wide experience in that field.

4. With regard to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee saw no benefit in continuing to hold joint meetings with that body and had decided that, the following August, onl the officers of the two bodies would meet. In that connection, it should be noted that, in August 1995, the Sub-Commission and the Committee had decided to undertake a joint study of article 7 of the Convention. As a member of th Committee, the Chairman had prepared a note on that question (CERD/48/Misc.3) in which he proposed that the above-mentioned study should take account not only of UNESCO's endeavours in the field of education, but also of the experiments carried out in some countries, particularly Sweden, to induce young neo-Nazis to change their behaviour.

5. Mr. CISSE (Secretariat) thanked the Committee for inviting him to participate in the discussion and said that, due to the lack of resources, it had been possible to hold only one seminar in 1995 since the Trust Fund for the Programme for the Decade had received only US$ 40,000 for that year. In 1996, the amount available to the Fund was US$ 100,000, which should, in principle, enable two seminars to be held. The first, to be held in November 1996, would deal with immigration and racism. The second, schedule for September 1996, would combine, for reasons of economy, two of the semina provided for in paragraph 7 (a) and (b) of the Programme of Action, namely, the seminar to assess the experience gained in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and the seminar on the eradication of incitement to racial hatred and discrimination.

6. It was also due to the lack of resources that the Centre for Human Rights had been unable to organize the inter-agency meetings provided for in paragraph 22 of the Programme of Action, which would have provided a forum for discussion of further measures to strengthen coordination and cooperation concerning programmes relating to action to combat racism and racial discrimination.

7. Finally, he would inform the Sub-Commission, through its officers, that the Committee did not wish to continue holding joint meetings with it.

8. Mr. ATCHEBRO (Secretariat) said that the Committee's proposed amendments to the compendium of model legislation referred to in paragraph 10 of resolution 49/146 had been duly taken into consideration; the compendium would be published in the near future. If it so wished, the Committee would obviously be able to transmit to the secretariat any further amendments it wished to make to that text.

9. Mr. GARVALOV said that the responsibility for giving effect to the Convention was borne primarily by the States parties; he regretted that, during their last meeting, those States had not taken account of the comments that the Committee had communicated to them in writing. He therefore proposed that a meeting should be arranged between the Committee and the States parties during which the former would be able to tell the latter, by word of mouth, what it expected of them by way of action to combat racial discrimination.

10. As the body responsible for ensuring implementation of the Convention, the Committee should also propose new ways to effectively promote closer cooperation, if not with all the bodies and organizations in the United Nations system, at least with some of them, particularly the General Assembly, the Economic and Social Council and the Security Council in order to acquaint them with its own views on measures to be taken to put an end to racial discrimination. Finally, the Committee should undertake the study of article 7 of the Convention.

11. Mr. SHERIFIS expressed the hope that the Committee would prepare a general recommendation, under article 5 (d) of the Convention, on the right of refugees and displaced persons to recover their property: that highly important question was arising in all regions of the world. In that connection, he wished to know whether consideration was being given to the conduct of a study or the organization of a seminar on that question within the framework of the Programme of Action for the Third Decade.

12. Mr. WOLFRUM said that the joint meetings of the Sub-Commission and the Committee were not of great benefit, particularly considering the limited time available to the Committee to discharge its task.

13. Although the model legislation mentioned in paragraph 10 of resolution 49/146 had been formulated in a constructive spirit, much still remained to be done to turn it into a valid source of information.

14. With regard to the seminars, emphasis should be placed on the need to teach human rights and make children more aware of the need to combat discrimination as soon as possible. That task should be carried out in close

collaboration with UNESCO. Finally, during those seminars, a study should be made of the underlying reasons for the increase in racism and violence, which could not be explained solely by competition in the labour market.

15. Mr. DIACONU, referring to Mr. Garvalov's statement concerning the need for dialogue between the Committee and the States parties, pointed out that, since 1965, the year in which the Convention had been adopted, no real discussion had ever been held between the Committee and the States parties on the implementation of the Convention, the ratification of its amendments or the submission of reports, in other words, on a whole series of questions that it would be very useful to consider jointly. The sole purpose of the meeting of States parties, which was held only once every two years, was to elect the members of the Committee. He therefore suggested that the Committee should request the General Assembly to convene a meeting on substantive questions, to be attended by representatives of the States parties and, for example, the Chairman and the Rapporteur of the Committee.

16. Mr. van BOVEN considered the question of the root causes of racism as very important and wondered whether the numerous studies carried out by UNESCO in the past were still valid. As a former member of the Sub-Commission, he too thought that the joint meeting with the Sub-Commission was not very useful. On the other hand, he felt that the officers of the two bodies should hold working meetings to consider topics such as the question of measures to assist marginalized groups, which had not hitherto been studied in depth. He agreed that the sole purpose of the meetings of States parties was to elect the members of the Committee. For his part, he continued to believe that the best framework for a discussion of the Committee's work was the General Assembly.

17. Mr. RECHETOV expressed surprise that the possibility of holding the Committee's next session was being questioned. If the situation had deteriorated to that extent, the members of the Committee should have discussed it with Mr. Fall instead of proposing new forms of cooperation between the Committee and the secretariat. The idea that the Committee would no longer meet while some of its representatives would hold discussions with the representatives of the secretariat was totally unacceptable and absolutely contrary to the spirit of collective work that should characterize the Committee's activity. The joint meetings with the Sub-Commission were a recent innovation that should not be expected to produce miracles straight away. The Committee should make proposals with a view to developing that cooperation. Finally, he thought that the Committee, being highly experienced and competent, should participate in all forms of action to combat racism, that serious ailment against which no country was immune.

18. Mr. CISSE (Secretariat), replying to the questions raised by members of the Committee, said that Mr. Garvalov had emphasized the need for close cooperation between all bodies concerned with human rights. However, there was also a need for closer cooperation in regard to the support that the United Nations Secretariat and the secretariats of the specialized agencies were extending to the bodies which they served. The joint meetings between the Committee and the Sub-Commission had been organized with a view to helping those two bodies to coordinate the planning of their activities. The secretariat was at the Committee's disposal for any decision that the latter

might wish to take in that regard. The idea of undertaking a study or organizing a seminar on the question of the property rights of refugees and displaced persons could be considered within the framework of paragraph 17 of General Assembly resolution 49/146, which provided for the possibility of supplementing the Programme of Action for the Third Decade through new proposals.

19. With regard to the root causes of racism, the secretariat would be compiling a compendium of the studies carried out by UNESCO on that subject and would transmit it to the joint meeting of the Committee and the Sub-Commission if such a meeting were held. Mr. Rechetov's comment confirmed that it was absolutely essential to coordinate the activities of the secretariat with those of the specialized agencies in order to ensure the provision of the assistance needed to combat racism and implement the Programme of Action for the Third Decade. Finally, concerning the budgetary restrictions, he pointed out that the resources allocated to action to combat racism and racial discrimination could not be cut since, unfortunately, they did not exist.

20. The CHAIRMAN thanked the representatives of the secretariat for that useful exchange of views.

21. Mr. Garvalov took the Chair.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Draft concluding observations concerning the United Kingdom of Great Britain and Northern Ireland (Rev.1) (document distributed, in English only, during the meeting)

Paragraph 1

22. Paragraph 1 was adopted.

Paragraph 2

23. Mr. van BOVEN considered that it would be more logical to divide that paragraph into two. The second would begin with the fourth sentence of the present paragraph.

24. Mr. RECHETOV, noting that most of the British dependent territories were not covered by the report that had been submitted, said he did not believe that there was cause to note with satisfaction, as stated in the second sentence of the paragraph, that the State party had fulfilled its reporting obligations in a timely manner.

25. Mr. van BOVEN observed that, later in the same paragraph, the Committee noted with regret that no information had been submitted with respect to dependent territories other than Hong Kong.

26. Mr. RECHETOV proposed that the second sentence of the paragraph shoul read: "It notes with satisfaction the State party's timely submission of t report, as well as ... ".

27. Paragraph 2, divided into two paragraphs and with the amendment propo by Mr. Rechetov, was adopted.

Paragraph 3

28. Mr. DIACONU considered that that paragraph should not appear in the conclusions, at all events certainly not in the introductory part of the conclusions. In paragraph 3, the Committee expressed appreciation for the abundance of information received from non-governmental organizations. Sho it henceforth, in other cases, regret the absence of such information?

29. Mr. WOLFRUM noted that, for the first time, the Committee had receive very precise information from NGOs. That information had been very useful and, therefore, should definitely be mentioned in its conclusions. The introductory part seemed the most appropriate for that. There was no reaso why the Committee should feel obliged to deplore the absence of information from NGOs in other cases.

30. Mr. van BOVEN said he attached considerable importance to the retenti of that paragraph. The NGOs had shown evident interest in the Committee's work on that case and, above all, the Committee was fully justified in maki such a comment in the light of General Assembly resolution 50/170, paragraph 20 of which recognized the important role played by NGOs in the effective implementation of all human rights instruments and encouraged the exchange of information between the human rights treaty bodies and such organizations.

31. Mr. YUTZIS was fully in favour of retaining the paragraph and emphasi the fact that it was the first time that NGOs had provided the Committee wi documents explicitly intended for it, thereby indicating the increasing interest those organizations were taking in its work. Moreover, although t Committee addressed itself to States, its fundamental duty was to ensure th individuals benefited from the provisions of the Convention.

32. Mr. CHIGOVERA said that, if the Committee thought that paragraph 3 sh appear in the draft conclusions concerning the United Kingdom, of which he personally was not convinced, it should also reconsider the conclusions concerning the Russian Federation and Finland, on which very interesting information had been communicated by NGOs.

33. Mr. RECHETOV shared that opinion and pointed out that it was the firs time that reference had been made to NGO contributions in the Committee's conclusions.

34. Mr. SHERIFIS agreed with Mr. van Boven concerning the appropriateness mentioning the collaboration of NGOs with the Committee. However, he thoug that it would be advisable to ascertain whether the NGOs mentioned by the

General Assembly were not solely those in consultative status with the Economic and Social Council, and to specify the NGOs to which the Committee was referring.

35. Mr. LECHUGA HEVIA noted that the difference between the information which the NGOs had provided concerning the United Kingdom and that which they had provided concerning other countries lay solely in its quantity. However, in its conclusions, the Committee was giving its opinion on the information received from the State party; hence, such a paragraph was inappropriate in that section.

36. Mrs. SADIQ ALI emphasized the fact that, without the NGOs, the Committee would be very short of information; in her view, the paragraph should be retained.

37. Mrs. ZOU said that, if the Committee wished to retain that paragraph, it would be preferable to delete the word "abundance".

38. Mr. VALENCIA RODRIGUEZ stressed the need to thank the NGOs. Their cooperation, which was always useful, had been particularly valuable in the case of the United Kingdom.

39. He drew attention to the fact that the Committee, being independent, did not report to the Economic and Social Council and, consequently, was not obliged to take into account the status that certain NGOs might enjoy vis-à-vis the Council.

40. Mr. AHMADU considered that the paragraph was justifiable in so far as the Committee had benefited greatly from the information provided by a certain NGO. However, he thought that it would be preferable if the word "abundance" were replaced by a more neutral term.

41. The CHAIRMAN, speaking as a member of the Committee, said that he was not opposed to the inclusion of that paragraph, but he would not have placed it in the introduction.

42. Mr. DIACONU said that he had raised a question of principle and had not passed judgement on any particular NGO. It was the first time that information provided by NGOs had been mentioned in the Committee's conclusions. Since it was actually a very special situation limited to the United Kingdom, in which NGOs from that country had provided specific and well-documented information which the Government had not contradicted, he proposed that, if the paragraph were retained, the words "abundance of" should be replaced by the word "specific" and that the words "stationed in the State party" should be added after the words "non-governmental organizations", the words "in the State party" at the end of the same line being deleted. The paragraph would therefore read: "The Committee expresses appreciation for the specific information received from non-governmental organizations stationed in the State party, which helped it to clarify the situation and contributed significantly to the quality of the dialogue".

43. Mr. SHERIFIS proposed that the words "and recognized by the United Nations" should be added after "stationed in the State party".

44. Mr. van BOVEN and Mr. DIACONU opposed the latter proposal since, for many years, the United Nations had been inviting NGOs that were not in consultative status to participate in its work on all sorts of questions such as disarmament, apartheid, the organization of world conferences, etc. Furthermore, in its resolution 50/170, the General Assembly had not stipulated that the NGOs with which the human rights treaty bodies were invited to collaborate must be recognized by the United Nations; in actual fact, the NGOs referred to in the paragraph under consideration were from the country concerned. Moreover, one of the reasons for the Committee's insistence on the publication of its report and its conclusions was to keep local NGOs informed of its work. The Committee was dealing with a special case and the paragraph, as amended, formed an entirely appropriate part of the conclusions.

45. Mr. WOLFRUM acknowledged that the limitation implied by the expression "stationed in the State party" was justified in view of the specific nature of the case of the United Kingdom. He was willing to support the text proposed by Mr. Diaconu because he preferred a consensus to a vote, but only on the condition that the limitation implied by the amendment applied solely to the United Kingdom.

46. Mr. AHMADU proposed that the word "stationed" should be replaced by the word "based" and that "State party" should be replaced by "United Kingdom" (more restrictive).

47. Mr. YUTZIS, invoking paragraph 23 of General Assembly document A/50/505 on the "Effective implementation of international instruments on human rights", drew the Committee's attention to the importance that the chairpersons of the human rights treaty bodies attached to national - and he stressed the word "national" - non-governmental organizations and institutions seeking to promote and defend human rights. That was the sense in which the amendment proposed by Mr. Diaconu should be understood. In the same paragraph, the chairpersons also recommended that the schedule for the consideration of reports by the various bodies should be communicated to those national NGOs.

48. Mr. VALENCIA RODRIGUEZ proposed that the word "significantly" should be deleted from the paragraph and that the latter should be adopted in the form proposed by Mr. Diaconu.

49. Mr. LECHUGA HEVIA said that he was resolutely opposed to the inclusion of the paragraph, even in an amended form. In general, he was opposed to the inclusion of any similarly worded paragraph in the conclusions, regardless of the identity of the country concerned. He therefore requested that a vote should be taken on that paragraph.

50. Mr. CHIGOVERA announced that he would abstain in the vote unless the Committee decided that it would henceforth mention the contribution of NGOs whenever the occasion presented itself in the case of other countries.

51. Mr. SHERIFIS said that, as far as he was concerned, the term "based" unquestionably meant "recognized". He requested that his interpretation should be explicitly noted in the summary record of the meeting.

52. The CHAIRMAN put to the vote paragraph 3, as amended by Mr. Diaconu and with the changes proposed by Mr. Ahmadu and Mr. Chigovera concerning the words "stationed" and "significantly".

53. Paragraph 3, in its amended form, was adopted by 11 votes to 1, with 1 abstention.

Paragraph 4

54. Paragraph 4 was adopted.

Paragraph 5

55. Mrs. ZOU, supported by Mr. Lechuga Hevia, proposed the deletion of that paragraph, which she regarded as serving no purpose.

56. Mr. RECHETOV said that the paragraph reflected the wish expressed by some members of the Committee. Although he had no objection to that text, he wondered whether it might not be used for purposes other than those initially intended.

57. Mr. WOLFRUM said the reason for the inclusion of that paragraph was that the conclusions were addressed to the State party which had submitted the report. However, its wording was too vague and should be amended.

58. Mr. SHERIFIS shared Mrs. Zou's opinion. He felt that the paragraph might be interpreted as an implicit criticism of a State party whose report had not even been considered by the Committee.

59. Mr. van BOVEN agreed that the wording of the paragraph should be revised. However, the United Kingdom was expected to submit another report containing information on the dependent territory of Hong Kong, as indicated in paragraph 36 of the draft conclusions. The Committee would also have before it a report from the People's Republic of China and would therefore have an opportunity to consider the question of Hong Kong on two occasions. Consequently, paragraph 5 served no useful purpose and he proposed that it should be deleted.

60. Mr. DIACONU, Mr. RECHETOV and Mrs. SADIQ ALI supported Mr. van Boven's proposal.

61. The CHAIRMAN said that, if there was no objection, he would take it that all the members of the Committee endorsed that proposal.

62. It was so decided.

63. Paragraph 5 was deleted.

Paragraph 6

64. Paragraph 6 was adopted.

Paragraph 7

65. Mr. DIACONU observed that the second part of the first sentence was unrealistic. He did not believe that the Commission on Racial Equality could designate the publication or distribution of racist material as an offence justifying arrest without a warrant. Only a court of law was competent to take such a decision.

66. Mr. van BOVEN said that Mr. Diaconu was right; that sentence should be rephrased.

67. The CHAIRMAN proposed that the members of the Committee should confer in order to agree on the wording of the first sentence. In the meantime, he invited them to consider the next paragraph of the draft.

Paragraph 8

68. Mr. RECHETOV said that the paragraph could be interpreted as an appeal for the assimilation of minorities.

69. Mr. WOLFRUM pointed out that according to the UNESCO Convention against Discrimination in Education, members of minorities should be able to speak both their language and the language of the community as a whole - English in the case of the United Kingdom - in order to avoid becoming second-class citizens. Accordingly, in his view, that paragraph posed no problem.

70. Paragraph 8 was adopted.

Paragraphs 9 and 10

71. Paragraphs 9 and 10 were adopted.

Paragraph 11

72. Mr. WOLFRUM considered it incorrect to say that individuals lacked recourse to an international body, since individual petitions could be submitted to the European Court of Human Rights, which was an international body.

73. Mr. van BOVEN said that the paragraph should be read in the light of th discussion that had taken place during the consideration of the report. He pointed out that the United Kingdom had not acceded to the Optional Protocol to the International Covenant on Civil and Political Rights.

74. Paragraph 11 was adopted.

Paragraph 12

75. Mr. SHERIFIS noted that the paragraph emphasized religious rather than racial discrimination, whereas the Convention dealt primarily with racial discrimination. He also wondered whether the expression "Jewish faith", whi appeared in the third sentence, was appropriate.

76. Mr. van BOVEN said that the question referred to in that paragraph, although very complicated, had been raised in a recommendation by the Commission on Racial Equality. Nevertheless, it was too delicate to form the subject of a recommendation by the Committee in the part of the draft conclusions devoted to suggestions and recommendations. With regard to the expression "Jewish faith", it could be easily replaced by "Jewish community".

77. Mr. YUTZIS said that it was difficult to establish an objective demarcation between race and religion; for his part, he found the text of the paragraph fairly well balanced and acceptable. He saw no reason why the expression "Jewish faith" should be criticized.

78. The CHAIRMAN proposed that the members of the Committee should give thought to a different wording of the third sentence of paragraph 12 and, in the meantime, consider the next paragraph.

Paragraph 13

79. Mr. CHIGOVERA proposed a new wording for that paragraph which would take greater account of the position of the United Kingdom on article 4 (b). It would read:

> "Concern is expressed about the interpretation of article 4 as presented in the State party's interpretative statement regarding this article and reaffirmed in the present report. Such an interpretation is not only in conflict with the established view of the Committee, as elaborated in its General Recommendation XV (42), but also amounts to a negation of the State party's obligation under article 4 (b) to outlaw and prohibit organizations which promote and incite racial discrimination."

80. Paragraph 13, as amended, was adopted.

Paragraphs 14, 15 and 16

81. Paragraphs 14, 15 and 16 were adopted.

Paragraph 17

82. Following a brief exchange of views between Mr. Wolfrum, Mr. van Boven and Mr. Ahmadu concerning the proposed asylum and immigration law, the CHAIRMAN said that the official title of that bill should be inserted in the second sentence. However, he took it that there was a consensus concerning the paragraph as a whole.

83. Paragraph 17 was adopted without reservation concerning that addition.

The meeting rose at 1 p.m.